

CHAPTER NO. 465

SENATE BILL NO. 21

By Cohen, Cooper

Substituted for: House Bill No. 155

By Kisber, Ulysses Jones, Towns, Langster

AN ACT To amend Tennessee Code Annotated, Title 2, relative to enacting "The 2000 Presidential Election Debacle Reform Bill of 2001".

WHEREAS, To assure the election process is fair, just and accurate; and

WHEREAS, To assure election results reflect the will of the people; and

WHEREAS, The State of Tennessee uses various types of voting mechanisms including electronic machines and punch card machines; and

WHEREAS, Under certain circumstances machine error may cause a person's vote not to be counted; and

WHEREAS, Election officials should act responsibly and ensure votes are properly tallied without fraud, abuse or error; now, therefore,

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. This act shall be known and may be cited as "The 2000 Presidential Election Debacle Reform Bill of 2001".

SECTION 2. Tennessee Code Annotated, Section 2-7-133, is amended by adding the following as a new, appropriately designated subsection:

() Notwithstanding any other provision of law to the contrary, a vote shall be counted if a recount is undertaken on a punchcard ballot under the following conditions:

(1) when at least two corners of the chad are detached; or

(2) light is visible through the hole; or

(3) an indentation of the chad from the stylus or other object is present and indicates a clearly ascertainable intent of the voter to vote.

SECTION 3. Tennessee Code Annotated, Section 2-7-133, is further amended by adding the following as a new, appropriately designated subsection:

() Notwithstanding any other provision of law to the contrary, if a voter marks a paper or optical scan ballot with a cross, "x", checkmark or any other appropriate mark within the square, circle or oval to the right of the candidate's name, or any place within the space in which the name appears, indicating an intent to vote for that candidate, it is

a vote for the candidate whose name it is opposite. Underlining or circling the candidate's name would also constitute a vote. Any apparent erasure of a mark next to the name of a candidate may not be counted as a vote for that candidate if the voter makes another mark next to the name of one or more different candidates for the same office and counting of the mark would result in an excess number of votes cast for the office.

SECTION 4. Tennessee Code Annotated, Section 2-7-133, is further amended by adding the following as a new, appropriately designated subsection:

() If a voter casts more than one (1) vote for the same candidate for the same office, the first vote is valid and the remaining votes are invalid.

SECTION 5. Tennessee Code Annotated, Title 2, Chapter 7, is amended by adding the following as a new, appropriately designated section:

2-7-____. (a) At any polling place utilizing a punchcard system of voting, the officer of elections shall cause to be posted a notice in a conspicuous position inside the polling place advising voters of the following:

(1) When voting on a punchcard device, please press hard to completely dislodge the chad.

(2) After voting, please check to see if all chads have been completely removed.

(3) If you have voted for more candidates than are eligible to be elected, your vote will not count.

(b) Additionally, each voter shall be either verbally advised or given a printed set of instructions for voting containing the information set out in subsection (a).

(c) Before the County Election Commission counts punchcard ballots, the appropriate official shall fan the cards to ensure that no hanging chads remain.

SECTION 6. Tennessee Code Annotated, Section 2-8-101, is amended by adding the following as a new subsection (c) and by redesignating the existing subsection (c) as subsection (d):

(c) Upon the completion of the vote tabulation on election night, each County Election Commission shall report unofficial results to the coordinator of elections in a form prescribed by the coordinator.

SECTION 7. Tennessee Code Annotated, Title 2, Chapter 17, Part 1, is amended by adding the following as a new, appropriately designated section:

2-17-1____. (a) Any court, primary board, legislative body, or tribunal having jurisdiction of an election contest pursuant to this chapter may order a recount of the ballots under any of the following circumstances:

(1) A tie vote; or

(2) An indication of fraud if the number of votes affected would be sufficient to change the result of the election; or

(3) A malfunction of a voting machine or tabulator if the number of votes affected would be sufficient to change the result of the election; or

(4) In any other instance the court or body with jurisdiction of a contested election finds that a recount is warranted.

(b) Any recount ordered by this section shall be a complete recount of all ballots cast in such election.

(c) The court or body with jurisdiction of a contested election shall determine if the recount shall be conducted by hand or with automated tabulators.

SECTION 8. Tennessee Code Annotated, Title 2, Chapter 9, Part 1, is amended by adding a new, appropriately designated section:

2-9-____. The state coordinator of elections and the State Election Commission shall approve any voting machine before a County Election Commission purchases such machine. Before the 2002 election cycle and at least every eight (8) years thereafter, the state coordinator of elections and the State Election Commission shall reexamine all voting machines to ensure such machines still meet the minimum criteria for certification. If a particular machine is not recertified by the coordinator of elections and the State Election Commission, the affected County Election Commission shall have two (2) years to purchase and implement machines that are properly certified.

SECTION 9. Tennessee Code Annotated, Section 2-19-113, is amended by deleting the language "Class C misdemeanor" and substituting instead the language "Class A misdemeanor".


SECTION 10. Tennessee Code Annotated, Section 2-19-114, is amended by deleting the language "Class C misdemeanor" and substituting instead the language "Class A misdemeanor".

SECTION 11. The state coordinator of elections is authorized to promulgate rules and regulations concerning the proper use of punchcard machines to ensure their maximum efficiency. Such rules and regulations shall address the disposal of punchcard chads to prevent the machine from clogging and impairing the ability of the voter to cast a vote. In addition, the state coordinator of elections in consultation with the state association of election commissioners shall by rule design a uniform standard for the quality of paper to be used in punchcard machines. All such rules and regulations shall be promulgated in accordance with the provisions of Tennessee Code Annotated, Title 4, Chapter 5.

SECTION 12. This act shall take effect upon becoming a law, the public welfare requiring it.

PASSED: August 7, 2001


JOHN S. WILDER
SPEAKER OF THE SENATE


JIMMY NAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES

APPROVED this day of 2001

DON SUNDQUIST, GOVERNOR

Pursuant to Article III, Section 18, of the Constitution of the State of Tennessee, the Governor had Senate Bill No. 21 in his possession longer than ten (10) days, so therefore the bill becomes law without the Governor's signature.